

SECTION 11.30 TYPES AND SAMPLES OF DISCIPLINARY ACTIONS

Last Update: 2/13

Written Notice

Regardless of the type of disciplinary measure imposed, a written notice indicating the reason(s) for discipline, type and duration of the disciplinary action, and grievance or appeal rights of the employee must be given to the employee within twenty-four (24) hours for non-contract employees, within three (3) workdays with a copy to the union for AFSCME and UE/IUP employees, and within five (5) workdays with a copy to the union for SPOC employees.

The contents of the letter should be reviewed with the employee; the employee should be instructed to read the letter; and the employee should be asked to sign to acknowledge receipt of the letter. If an employee refuses to sign, the refusal should be noted on the letter and signed and dated by the issuer of the disciplinary notice.

A copy of all disciplinary letters must be retained in the employee's personnel file. Letters of discipline are not removed from the personnel file unless as part of an arbitrator's decision, a settlement agreement, or a collective bargaining agreement provision. The SPOC collective bargaining agreement requires removal of written reprimands after three (3) years. The UE/IUP collective bargaining agreement requires the removal of written reprimands after twelve (12) months, if no additional discipline is received within that twelve (12)-month period. The AFSCME collective bargaining agreement requires that written reprimands, clarifications of expectations, or other similar memoranda be removed from the employee's personnel file after one (1) year, provided no further disciplinary action has been taken against the employee. Disciplinary letters for non-contract employees remain in the personnel file permanently unless removed as part of a grievance settlement.

Copies of all disciplinary letters must be sent to the DAS-HRE personnel officer.

Except for severe infractions of laws, rules, or policies, discipline should be progressive, corrective, and must always be well documented.

In accordance with policies and rules of the DAS-HRE and the collective bargaining agreements, discipline for any employee must meet the standards of just cause. ([See Section 11.1](#))

Some infractions, even though they are the first committed by an employee, may be serious enough to warrant suspension or summary discharge following an investigation. The following steps are meant only to provide a guide to implementing progressive discipline.

Letter of Written Reprimand ([See sample in this section](#))

The written reprimand should be signed by both the supervisor and the employee. The written reprimand must be given to the employee with one (1) copy placed in the official employee file, one (1) copy given to the personnel officer, and one (1) copy given to the union (if applicable).

The letter of reprimand must include the following information:

- Written notice of infraction, citing specific rule(s) and policy(s) violated.
- Specific information (dates, times, what occurred) regarding the unacceptable behavior or performance.
- Information regarding what is expected of the employee to correct the problem or performance.
- Grievance or appeal rights.

See the appropriate collective bargaining agreement for information on the removal of written reprimands from the employee personnel file.

Letter of Suspension ([See samples in this section](#))

Disciplinary suspensions for employees covered by the Fair Labor Standards Act (FLSA) are [without pay](#). An employee exempt from the FLSA will be given documentation of disciplinary action equivalent to a suspension ([paper suspension](#)); the FLSA exempt employee will not serve time off or be docked in pay.

The length of the suspension must fit the severity of the infraction. Disciplinary action that is taken as a punitive rather than a corrective measure will not be supported in the appeal or grievance process. A suspension without pay may not exceed thirty (30) days.

Suspensions with pay pending the outcome of an investigation (administrative suspension) may be used to remove an employee from the workplace until the completion of the investigation. See collective bargaining agreements for limitations.

All suspensions should be reviewed with the personnel officer assigned to the department prior to implementation.

The letter of suspension must be given to the employee with one (1) copy placed in the official employee file, one (1) copy given to the personnel officer, and one (1) copy given to the union (if applicable).

The letter of suspension must contain the following information:

- Effective date of suspension.
- Length of suspension in workdays.
- Return to work date.
- Written notice of infraction, citing specific rule(s) and policy(s) violated.
- Specific information (dates, times, what occurred) regarding the unacceptable behavior or performance.
- Information regarding what is expected of the employee to correct the problem or performance.
- Grievance or appeal rights.

Management may determine it necessary to issue a final warning as part of a disciplinary suspension letter. The letter will state that if the employee engages in the same type of behavior or further violates work rules that would normally result in disciplinary action, discharge will occur. A final warning is usually given as the final step in a progressive discipline, or in the case where a lengthy suspension has been imposed for a severe rule infraction. Contact your personnel officer before issuing a final warning.

Disciplinary Demotion

An employee may be demoted to a vacant position as disciplinary action for inability to perform the duties of the higher position or for some instances of misconduct. For positions covered by a collective bargaining agreement, the position must be first posted and available to fill (clean) under the provisions of the applicable agreement. Just cause standards must be met. The employee must meet the minimum qualifications for the lower job class if it is not in the same series as the job class currently held by the employee. Demotion is considered substantive disciplinary action and should be discussed with the department's personnel officer before imposition.

Reduction of Pay within the Same Pay Grade

The UE/IUP collective bargaining agreement allows for reduction of wages for less than competent or inadequate job performance and violations of attendance policies. Such reductions are imposed in lieu of suspension, are temporary, and should approximate the dollar loss of the appropriate suspension. Reductions of pay may not result in an employee being paid less than minimum wage.

Letter of Discharge ([See sample in this section](#))

Following the investigation and the determination that discharge is likely warranted, the employee must be informed in person that discharge is being considered and be given the opportunity to respond to the allegations. This is known as the *Loudermill* meeting. Generally, public employees who can only be discharged for cause are viewed as having a property interest in continued employment. This includes employees covered by collective bargaining agreements, the merit system provisions, or a statutory provision requiring cause for termination. The *Loudermill* meeting is not a formal hearing to definitively resolve the legitimacy of the discharge, such as a grievance or arbitration proceeding. Instead, the employee is given an explanation of the findings of the investigation and an opportunity to present additional information that the employee wants management to consider prior to the imposition of discipline. If the decision stands after this discussion, the employee must be informed of the action in writing.

Discharge usually follows other lesser progressive disciplinary action. There are some circumstances, however, which warrant summary discharge. Summary discharge means discharge from employment upon completion of a fair and thorough investigation substantiating the alleged offense. Such discharge is not preceded by progressive discipline.

The letter of discharge must be given to the employee with one (1) copy placed in the official employee file, one (1) copy given to the personnel officer, and one (1) copy given to the union (if applicable).

The letter of discharge must contain the following information:

- Effective date of discharge.
- Reason for discharge, including the infraction and appropriate rule or policy violation.
- If progressive, reference to prior actions taken.
- Grievance or appeal rights.

Reassignment

As a result of some misconduct, it may be determined that it is in the best interest of the organization to reassign the employee to a different work unit or location, either as a disciplinary action or as part of an action such as suspension. This action must be discussed with the personnel officer to make sure it does not affect the rights of other employees (such as contractual transfer rights) and to insure that just cause has been met.

Non-discrimination

Supervisors must apply discipline in a non-discriminatory manner. Discipline may be considered as discriminatory if members of a protected class are given discipline disproportionate to the amount or severity of discipline given to non-protected class persons. Amounts or severity of discipline imposed must be justifiable based on the facts of each specific situation, incident, or event.

Non-contract Disciplinary Action

(NOTE: The DAS-HRE administrative rules require that on non-contract discipline notices for suspension, reduction of pay within the same pay grade, disciplinary demotion or discharge, the following language from [11—subrule 61.2\(6\)](#) be included verbatim.)

61.2(6) Appeal of disciplinary actions. Any non-temporary, noncontract employee covered by merit system provisions who is suspended, reduced in pay within the same pay grade, disciplinarily demoted, or discharged, except during the employee's period of probationary status, shall bypass steps one and two of the grievance procedure provided for in rule 11—61.1(8A) and may file an appeal in writing to the director for a review of the action within 7 calendar days after the effective date of the action. The appeal shall be on the forms prescribed by the director. The director shall affirm, modify or reverse the action and shall give a written decision to the employee within 30 calendar days after the receipt of the appeal. The time may be extended by mutual agreement of the parties. If not satisfied with the decision of the director, the employee may request an appeal hearing before the public employment relations board as provided in [11—subrule 61.2\(5\)](#).

Confidentiality

Refer to [Chapter 14.25](#), *Confidentiality of Employee Information*, regarding the release of information concerning employee discipline.

SAMPLE LETTER OF WRITTEN REPRIMAND

(Date)

(Employee's name/address)

Dear _____:

This letter is to serve as a written reprimand. This action is being taken as a result of your violation of this department's work rules regarding _____, which states:

On _____, you were counseled regarding your violation of this work rule.

From this date forward, you are expected to _____ unless you have prior approval from me to do otherwise. Further incidents of this nature will result in more severe disciplinary action being taken, up to and including discharge.

You may file a grievance per (*specify which: Article IV of your collective bargaining agreement or 11 IAC 61 of the Department of Administrative Services – Human Resources Enterprise rules*) if you feel this action was not taken for just cause.

Supervisor's Signature

I have read this letter and I have received a copy.

Date of Receipt

Employee's Signature

cc: Union Representative (if applicable)
Personnel Officer
Employee file

SAMPLE LETTER OF DISCIPLINARY SUSPENSION WITHOUT PAY

(Date)

(Employee's name/address)

Dear _____:

Effective _____, you are being suspended without pay for _____ workdays. You will be expected to return to work on _____. This action is being taken as a result of your violation of the work rule(s) of this department regarding _____, which state(s):

(Insert applicable work rule(s).)

On _____, you were counseled for _____; on _____, you received a written reprimand for _____; and on _____, you were suspended for _____.

This suspension should serve as a strong warning that your conduct will continue to be monitored and that another incident of this nature will result in more severe disciplinary action, up to and including discharge. You may file a grievance per *(specify which: Article IV of your collective bargaining agreement or Chapter 61 of the Department of Administrative Services – Human Resources Enterprise rules)* if you feel this action was not taken for just cause.

(NOTE: The DAS-HRE administrative rules require that on non-contract discipline notices for suspension, reduction of pay within the same pay grade, disciplinary demotion or discharge, the following language from 11—subrule 61.2(6) be included verbatim.)

61.2(6) Appeal of disciplinary actions. Any non-temporary, noncontract employee covered by merit system provisions who is suspended, reduced in pay within the same pay grade, disciplinarily demoted, or discharged, except during the employee's period of probationary status, shall bypass steps one and two of the grievance procedure provided for in rule 11—61.1(8A) and may file an appeal in writing to the director for a review of the action within 7 calendar days after the effective date of the action. The appeal shall be on the forms prescribed by the director. The director shall affirm, modify or reverse the action and shall give a written decision to the employee within 30 calendar days after the receipt of the appeal. The time may be extended by mutual agreement of the parties. If not satisfied with the decision of the director, the employee may request an appeal hearing before the public employment relations board as provided in 11—subrule 61.2(5).

Supervisor's Signature

I have read this letter and I have received a copy.

Date of Receipt

Employee's Signature

cc: Union Representative (if applicable)
Personnel Officer
Employee file

SAMPLE LETTER OF SUSPENSION WITH PAY
(Pending Completion of Investigation)

(Date)

(Employee's name/address)

Dear _____:

Effective _____, you are being suspended with pay pending the completion of an investigation concerning an allegation of _____. During this time period, you must continue to comply with the State of Iowa Substance Abuse, Violence-Free Workplace, and Anti-Discrimination Policies, and all State of Iowa and department work rules.

During this suspension with pay, your hours of work will be temporarily changed to 8:00 a.m. to 4:30 p.m., Monday through Friday. Saturday and Sunday will be your scheduled days off work.

It is important that you understand the restrictions placed upon your whereabouts during the time you are on this suspension with pay. During your assigned scheduled hours of work, you shall be available to your supervisor and/or the investigators by telephone and you must be able to report to work within one hour of notification. Failure to be available will result in disciplinary action, up to and including discharge.

During this time period, your residence essentially becomes your assigned work area. If you want to be absent from your residence for any reason other than a lunch period, you must contact your supervisor in advance and obtain the appropriate authorization.

If a scheduled state holiday occurs during this time period, your timecard will reflect the holiday off and the use of the holiday time for eight hours on that date.

If you have previously been approved for vacation during any portion of this time, you will be allowed to take the time as vacation and your timecard will reflect the use of vacation. If you wish to request vacation during this time period, you need to contact your supervisor in advance and obtain the appropriate authorization. If approved, your timecard will reflect the use of accrued vacation time.

If you need to go to a medical appointment or a pharmacy, or you need to schedule medical treatment, you must contact your supervisor in advance (where practicable) for authorization. If approved, your timecard will reflect the use of sick leave or other appropriate form of paid or unpaid leave.

In accordance with _____ (*specify which: AFSCME, SPOC, or UE/IUP collective bargaining agreement, or the Department of Administrative Services – Human Resources Enterprise rules*), this suspension with pay will be in effect until you are notified by your supervisor to return to work. You will be notified of any extensions of this leave, and you will be notified at the completion of the investigation.

If you have questions concerning this action or need further information about your status in regard to this action, please contact me.

Supervisor's Signature

I have read this letter and I have received a copy.

Date of Receipt

Employee's Signature

cc: Union Representative (if applicable)
Personnel Officer
Employee file

SAMPLE LETTER OF PAPER SUSPENSION

(Date)

(Employee's name/address)

Dear _____:

This is to advise you that the investigation into your alleged violation of the department work rules has been concluded. The investigation determined that your conduct violated work rule(s) _____ when you (or by your) _____. As a result of this infraction, you are hereby subject to this written notice of alternative discipline in lieu of a suspension without pay. While this action does not reduce your pay, seniority, or other benefits, it does carry the same weight as if you had been subject to a _____ day suspension.

This is the (first, second, third, etc.) violation of the cited work rule. On previous occasions, you have been disciplined as follows:

It is imperative that you understand that your failure to follow the department's work rules and policies is a serious matter.

You may file a grievance in accordance with (*Specify Article IV of the _____ collective bargaining agreement or chapter 61 of the Department of Administrative Services – Human Resources Enterprise rules*).

(NOTE: The DAS-HRE administrative rules require that on non-contract discipline notices for suspension, reduction of pay within the same pay grade, disciplinary demotion or discharge, the following language from 11—subrule 61.2(6) be included verbatim.)

61.2(6) Appeal of disciplinary actions. Any non-temporary, noncontract employee covered by merit system provisions who is suspended, reduced in pay within the same pay grade, disciplinarily demoted, or discharged, except during the employee's period of probationary status, shall bypass steps one and two of the grievance procedure provided for in rule 11—61.1(8A) and may file an appeal in writing to the director for a review of the action within 7 calendar days after the effective date of the action. The appeal shall be on the forms prescribed by the director. The director shall affirm, modify or reverse the action and shall give a written decision to the employee within 30 calendar days after the receipt of the appeal. The time may be extended by mutual agreement of the parties. If not satisfied with the decision of the director, the employee may request an appeal hearing before the public employment relations board as provided in 11—subrule 61.2(5).

Supervisor's Signature

I have read this letter and I have received a copy

Date of Receipt

Employee's Signature

cc: Union Representative (if applicable)
Personnel Officer
Employee file

SAMPLE LETTER OF DISCHARGE

(Date)

(Employee's name/address)

Dear _____:

This letter is to inform you that, effective _____, you are being discharged from employment with the Department of _____. This action is being taken as a result of our investigation. Specifically, the charges are that on _____ you _____ Our investigation brought forth evidence that supports the Department's allegation. Your actions are in violation of _____ substantiating the department work rules regarding _____ which state _____.

On previous occasions, you have been disciplined as follows:

You may file a grievance per (*specify which: Article IV of your collective bargaining agreement or Chapter 61 of the Department of Administrative Services – Human Resources Enterprise rules*) if you feel this action was not taken for just cause.

(NOTE: The DAS-HRE administrative rules require that on non-contract discipline notices for suspension, reduction of pay within the same pay grade, disciplinary demotion or discharge, the following language from 11—subrule 61.2(6) be included verbatim.)

61.2(6) Appeal of disciplinary actions. Any non-temporary, noncontract employee covered by merit system provisions who is suspended, reduced in pay within the same pay grade, disciplinarily demoted, or discharged, except during the employee's period of probationary status, shall bypass steps one and two of the grievance procedure provided for in rule 11—61.1(8A) and may file an appeal in writing to the director for a review of the action within 7 calendar days after the effective date of the action. The appeal shall be on the forms prescribed by the director. The director shall affirm, modify or reverse the action and shall give a written decision to the employee within 30 calendar days after the receipt of the appeal. The time may be extended by mutual agreement of the parties. If not satisfied with the decision of the director, the employee may request an appeal hearing before the public employment relations board as provided in 11—subrule 61.2(5).

Sincerely,

Supervisor's Signature

I have read this letter and I have received a copy.

Date of Receipt

Employee's Signature

cc: Union Representative (if applicable)
Personnel Officer
Personnel file